

04-11895

# UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 05-2592

RICHARD J. ANDREW

Petitioner - Appellant

v.

KENNETH NELSON

Respondent - Appellee

ORDER OF COURT  
Entered: 10/24/05

This court has docketed petitioner-appellant's appeal from the denial of his petition for writ of habeas corpus under 28 U.S.C. Sec. 2254. The case cannot go forward unless a certificate of appealability issues. 28 U.S.C. Sec. 2253. A request for a certificate of appealability must first be sought in the district court. See Local Rule 22.1(b). Petitioner-appellant's request for a certificate of appealability, filed on 10/5/05, is pending in the district court.

Accordingly, we direct petitioner-appellant to file a status report in this court by 11/23/05, and every thirty days thereafter, advising us of the status of that motion. We further order petitioner-appellant to inform us immediately once the district court reaches a decision on the motion for a certificate.

If a status report is not filed by 11/23/05 and at thirty-day intervals thereafter, this appeal may be dismissed for want of diligent prosecution.

By the Court:

Richard Cushing Donovan, Clerk

**JULIE GREGG**

By \_\_\_\_\_  
Operations Manager

To: Richard J. Andrew

cc: David Mark Lieber